

REMARKS

Claims 1 through 13 are pending in this application. Applicant acknowledges, with appreciation, the Examiner's allowance of claims 3, 4, 6 and 7. Accordingly, the only remaining issue pivots about the patentability of claims 1, 2, 5 and 8 through 13.

Claims 9 and 10 have been amended and new claims 11 through 13 added. Care has been exercised to avoid the introduction of new matter. Applicants would note that the amendments to claims 9 and 10 merely eliminate improper multiple dependency. New claim 11 corresponds to original claim 9 dependent upon claim 8; new claim 12 corresponds to original claim 10 dependent upon claim 8; and new claim 13 corresponds to original claim 10 dependent upon claim 9. Applicant submits that the present Amendment does not generate any new matter issue.

Claim Objections.

The Examiner objected to claims 9 and 10 under 37 C.F.R. § 1.75(c) as improperly dependent upon another multiple dependent claim. In response, claims 9 and 10 have been amended to address improper multiple dependency, thereby overcoming the stated basis for the claim objections. Accordingly, withdrawal of the claim objections is solicited.

Claims 1, 2, 5 and 8 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Matsumoto et al.

This rejection is traversed. As appreciated by the Examiner, Matsumoto et al. constitutes prior art by virtue of 35 U.S.C. § 102(e). However, the subject matter disclosed by Matsumoto et al. relied upon by the Examiner and the claimed invention were, at the time the invention was made, owned by the same person (Sanyo Electric Co., Ltd.) or subject to an obligation of

assignment to the same person (Sanyo Electric Co., Ltd.). Accordingly, pursuant to 35 U.S.C. § 103(c), the reference to Matsumoto et al. cannot preclude the patentability of the claimed invention.

It is, therefore, apparent that the imposed rejection of claims 1, 2, 5 and 8 under 35 U.S.C. § 103 for obviousness predicated upon Matsumoto et al. is not legally viable and, hence, should be withdrawn.

New claims 11 through 13.

New claims 11 through 13 are free of the applied prior art by virtue of their ultimate dependence upon claims that have been allowed or upon claims made allowable by the present response. Further, Applicants separately argue the patentability of claims 11 through 13 based upon the limitations expressed therein.

Based upon the foregoing it should be apparent that the imposed objection and rejection have been overcome, and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Application No.: 10/808,595

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'A. J. Steiner', is written over the printed name.

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